



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0516

Introduced 1/27/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.29-5 new

215 ILCS 5/424

from Ch. 73, par. 1031

Amends the Illinois Insurance Code. Prohibits insurers from requiring insureds or claimants to utilize designated facilities or the products of designated manufacturers as a prerequisite to the payment of a claim, engaging in any act of coercion or intimidation to cause an insured or claimant to utilize the services or products of a designated facility or manufacturer, failing to disclose to the insured or claimant that the third party representative in connection with a glass claim is not the insurer but is acting on behalf of the insurer, failing to disclose to an insured or claimant at the time of recommendation of a repair facility or manufacturer that the insured or claimant is not obligated to use that facility or manufacturer, failing to disclose to the insured or claimant at the time of recommendation of a repair facility or manufacturer that the insurer or its third party representative has a financial interest in that facility or manufacturer. States that insurers are not required to pay an amount for motor vehicle repair that is greater than the prevailing competitive charges within a reasonable geographic area in order to comply with the requirements. Provides penalties. Effective January 1, 2006.

LRB094 06125 LJB 36189 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 155.29-5 and by changing Section 424 as follows:

6 (215 ILCS 5/155.29-5 new)

7 Sec. 155.29-5. Unfair settlement practices; replacement
8 and repair; penalty.

9 (a) No person shall do any of the following:

10 (1) require an insured or claimant to utilize
11 designated replacement or repair facilities or services,
12 or the products of designated manufacturers, as a
13 prerequisite to settling or paying any claim arising under
14 a policy or policies of insurance;

15 (2) engage in any act of coercion or intimidation
16 causing or intended to cause an insured or claimant to
17 utilize designated replacement or repair facilities or
18 services, or the products of designated manufacturers, in
19 connection with settling or paying any claim arising under
20 a policy or policies of insurance;

21 (3) fail to disclose to the insured or claimant, prior
22 to being referred to a third party representative in
23 connection with a glass claim arising under a motor vehicle
24 insurance policy, that the third party representative is
25 not the insurer and is acting on behalf of the insurer;

26 (4) fail to disclose to the insured or claimant, at the
27 time that the insurer or its third party representative
28 recommends the use of a designated motor vehicle
29 replacement or repair facility or service, or products of a
30 designated manufacturer, in connection with settling or
31 paying any claim arising under a policy or policies of
32 insurance, that the insured or claimant is under no

1 obligation to use the replacement or repair facility or
2 service or products of the manufacturer recommended by the
3 insurer or by a representative of the insurer; or

4 (5) fail to disclose to the insured or claimant, at the
5 time that the insurer or its third party representative
6 recommends the use of a designated motor vehicle
7 replacement or repair facility in connection with settling
8 or paying any claim arising under a policy or policies of
9 insurance, that the insurer or its third party
10 representative has a financial interest in the replacement
11 or repair facility, if the insurer or its third party
12 representative has an interest.

13 (b) This Section shall not be construed to require an
14 insurer to pay an amount for motor vehicle repair services or
15 repair products necessary to properly and fairly repair the
16 vehicle to its pre-loss condition that is greater than the
17 prevailing competitive charges for equivalent services or
18 products charged by similar contractors or repair shops within
19 a reasonable geographic or trade area of the address of the
20 repair facility recommended by the insurer or its third party
21 representative. Offering an explanation of the extent of an
22 insurer's obligation under this Section to its policyholder or
23 third party claimant shall not constitute a violation of this
24 Section.

25 (c) A violation of this Section constitutes an unfair and
26 deceptive act under Article XXVI of this Code and is subject to
27 the provisions and penalties of that Article.

28 (215 ILCS 5/424) (from Ch. 73, par. 1031)

29 Sec. 424. Unfair methods of competition and unfair or
30 deceptive acts or practices defined. The following are hereby
31 defined as unfair methods of competition and unfair and
32 deceptive acts or practices in the business of insurance:

33 (1) The commission by any person of any one or more of the
34 acts defined or prohibited by Sections 134, 143.24c, 147, 148,
35 149, 151, 155.22, 155.22a, 155.29-5, 236, 237, 364, and 469 of

1 this Code.

2 (2) Entering into any agreement to commit, or by any
3 concerted action committing, any act of boycott, coercion or
4 intimidation resulting in or tending to result in unreasonable
5 restraint of, or monopoly in, the business of insurance.

6 (3) Making or permitting, in the case of insurance of the
7 types enumerated in Classes 1, 2, and 3 of Section 4, any
8 unfair discrimination between individuals or risks of the same
9 class or of essentially the same hazard and expense element
10 because of the race, color, religion, or national origin of
11 such insurance risks or applicants. The application of this
12 Article to the types of insurance enumerated in Class 1 of
13 Section 4 shall in no way limit, reduce, or impair the
14 protections and remedies already provided for by Sections 236
15 and 364 of this Code or any other provision of this Code.

16 (4) Engaging in any of the acts or practices defined in or
17 prohibited by Sections 154.5 through 154.8 of this Code.

18 (5) Making or charging any rate for insurance against
19 losses arising from the use or ownership of a motor vehicle
20 which requires a higher premium of any person by reason of his
21 physical handicap, race, color, religion, or national origin.

22 (Source: P.A. 92-399, eff. 8-16-01; 92-651, eff. 7-11-02;
23 92-669, eff. 1-1-03.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2006.